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1 A. DASRATH

2 that how it works?

3 A. I don't recall exactly, but
4 there comes a time where you receive another
5 transcript.

6 Q. When you went to Ms. Houghton's
7 office was she there, did you have a
8 discussion with her?

9 A. She wouldn't listen. They
10 don't listen.

11 Q. What did you say to her?

12 A. I showed her this transcript, I
13 showed her the second transcript, but they
14 just laugh in your face.

15 Q. Did she laugh in your face at
16 that time?

17 A. Yes.

18 Q. Did she say anything else
19 besides laughter?

20 A. She said nothing she can do
21 about it.

22 Q. Did you speak to anyone else
23 about the genetics grade change from B plus
24 to F?

25 A. Yes, I spoke to the person in

A. DASRATH

charge of the genetics department.

Q. And who is that?

A. I don't remember his name right now, but if I remember I'll tell you.

Q. And is he also located at Dominica?

A. Yes.

Q. What did you speak to him about?

A. I told him they changed my grade.

Q. And what was his response?

A. He looked at this transcript and the next transcript and said he didn't assign an F.

Q. Who was your professor in that class?

A. I'm trying to remember his name. I don't remember his name right now.

Q. Did you ever speak to that professor about your grade?

A. Of course.

Q. And that wasn't Ms. Houghton or this gentleman that you referred to; is that

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1 A. DASRATH

2 Q. What did Dr. Meisenberg say to
3 you?

4 A. He said I was very sorry and we
5 proceeded walking to the examination center
6 of Ross University.

7 Q. What is the examination
8 center?

9 A. That is where the exams are
10 prepared, that is where they are marked,
11 graded. That is where the transcript sheets
12 are kept.

13 Q. What did you do at the
14 examination center with Dr. Meisenberg?

15 A. I went to speak with Dr.
16 Desalu, the person in charge with the
17 examination center.

18 Q. What did you say to Dr. Desalu?

19 A. Dr. Meisenberg started speaking
20 to him that there seems to be a problem with
21 my grade. He told Dr. Meisenberg that he
22 doesn't follow their procedures.

23 Q. Does Dr. Desalu, to your
24 knowledge, grade the examinations?

25 A. I don't know who grades their

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2 of them were from the American Heart

3 Association. One of them was for family
4 abuse.

5 And then there was a fifth
6 one. I don't recall what it was called. I
7 do have the certification. The
8 certification papers I can look up.

9 Q. When you took these exams, you
10 would receive a certification if you passed
11 the exam?

12 A. Yeah.

13 Q. And you received all five
14 certifications?

15 A. Yeah.

16 Q. Was there anything else your
17 grade was based on besides the fifth
18 certification exams?

19 A. I'm not sure.

20 Q. Was there a clinical portion of
21 the class?

22 A. I don't believe the clinical,
23 there were some hospital visitation, but I
24 don't believe they were worth points. Not to
25 my knowledge.

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1 A. DASRATH

2 Q. Is there also a package, part
3 of your package of an application to take the
4 USMLE step I?

5 A. Yes.

6 Q. Do you know why there are two
7 different applications here?

8 A. Yes.

9 Q. What is the difference between
10 the two applications, if you know?

11 A. The first one was submitted on
12 March the 12th, 2006. At the recommendation
13 of Dr. Enrique Fernandez.

14 Q. To sit for the USMLE at that
15 point you to have apply; is that correct?

16 A. Yes.

17 Q. Is that stated in any
18 regulations or handbooks of the school that
19 you know of?

20 A. Yes.

21 Q. And so in March of 2006 you
22 applied to take the USMLE; is that correct?

23 A. Yes.

~~24~~ Q. And then in May 2006, ~~there is~~
25 a second application.

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2 Do you know why there is a
3 second application to take the exam?

4 A. Yes.

5 Q. Why is that?

6 A. The second application has to
7 be filled out again because the first
8 application was rejected.

9 Q. Why was it rejected?

10 A. They wanted to verify my date
11 of birth.

12 Q. What is your date of birth?

13 A. November 12th, 1957.

14 Q. And the first application was
15 that missing or was it incorrect?

16 A. To my knowledge, it was
17 correct.

18 Q. And they asked for a new
19 application to be sent there?

20 A. Yes.

21 Q. Who asked for that new
22 application to be sent?

23 A. The USMLE office.

~~24~~ Q. Is that the examining board?

25 A. Yes.

Exhibit V /

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2 A. No.

3 Q. So, after --

4 A. I'm not sure if it was just
5 friends, but to the best of my knowledge
6 that's how I came up with this idea of
7 getting on this web site.

8 Q. So, when you access the web
9 site what do you see?

10 A. I saw that an F was posted for
11 me.

12 Q. Was there any break down of the
13 grade or it just has the course name and the
14 grade?

15 A. I don't recall everything I
16 saw, I just saw the course name and an F.

17 Q. Did you maintain a copy of what
18 you saw on the web site?

19 A. The web site somehow does not
20 allow to print. I couldn't printout
21 anything.

22 Q. When you saw the failing grade
23 in the course, what did you do?

24 A. I attempted to contact Dr.
25 Fernandez.

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2 A. Yes.

3 Q. And these were the regulations
4 you referred to in the answer to the last
5 question?

6 A. Yes.

7 Q. I direct your attention to page
8 fourteen.

9 In the last paragraph it says
10 that students administratively withdrawn and
11 have not passed the USMLE on their first or
12 second attempts may request to be sponsored
13 to take or retake the USMLE, is that the
14 paragraph that you are referring to?

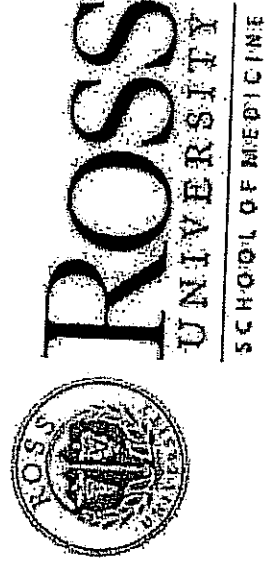
15 A. And I'm also referring to page
16 nine which says that students remain
17 registered after the AICM course for the next
18 seventeen weeks.

19 So, the remainder of that
20 sentence where it says student on
21 administrative leave withdrawn may request to
22 be sponsored to take or retake the USMLE
23 through a process of application made through
24 the university's admission office?

25 A. Yes.

ROSS UNIVERSITY SCHOOL OF MEDICINE
STUDENT HANDBOOK
OF
ACADEMIC RULES AND REGULATIONS

May 2006



- Fail the Comprehensive NBME in three attempts
- Fail USMLE step 2 in three attempts
- Fail to abide by university policies set forth
- Fail to pass the USMLE Step 1 in three attempts and within one year after they become eligible to take this exam.

In order to be eligible to begin clinical core clerkship rotations, students must meet all of the following pre-requisites:

- Successfully complete all the requirements of the Basic Science Coursework.
- Complete successfully the course "Advanced Introduction to Clinical Medicine" offered at the beginning of the Clinical Science segment.
- Pass the USMLE Step 1 (see below).

CLINICAL SCIENCE SEGMENT

The Clinical Science Curriculum begins with the "Advanced Introduction to Clinical Medicine" (AICM) course. All students are required to take the USMLE Step 1 for the first time within 6 months of becoming eligible. Failure to do so will subject the student to be dismissed.

Following the 12-week AICM, there is a 17-week scheduled break during which students remain fully enrolled. (Aside from a private "Extra" loan for live board review course fees, students are ineligible for financial aid during this period.) Some students will use this time preparing for, taking, and passing USMLE Step 1. Students who have already passed Step 1 may begin clinical clerkships at any time during this period. Students who have not received passing scores and have not started clinical clerkship within that period may still preserve their "in-school" student loan deferment status by applying for an academic leave of absence extending up to 180 days from the last day of the AICM. Beyond this timeframe, students who have not resumed clinical training fall into repayment status on their student loans and must be reported as withdrawn, for most purposes, to outside agencies.

Passing the AICM course and USMLE Step 1 are required for continuation into clinical clerkships. During the remainder of the Clinical Science curriculum, all students must take and pass all the required core and elective clinical clerkships. In addition to the 12 weeks of the AICM course, the School requires 48 weeks of core clerkships and 30 weeks of electives, for a total of 90 weeks of clinical training. These requirements are however, subject to change in the future, depending on regulatory and other academic requirements.

A final examination is given at the end of each clerkship. Students are also required to pass the USMLE Steps 1, 2 CK and Step 2 CS licensure examinations (see below).

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2 but not a copy of the handbook.

3 MS. McLAUGHLIN: I'm going to
4 mark this document as Exhibit J.

5 (Whereupon, the aforementioned
6 transcript was marked as Defendant's
7 Exhibit J for identification, as of
8 this date, by the Reporter.)

9 Q. Did you have a chance to take a
10 look at it?

11 A. Yes.

12 Q. Defendant Exhibit J. It appears
13 to be a transcript and is dated 5/22/2006
14 several days after the letter that you wrote
15 to Ross.

16 Is this the transcript that you
17 received in response to your letter?

18 A. Yes.

19 Q. On this transcript, are your
20 scores reflected yet for the AICM course?

21 A. No.

22 Q. So, there is no entry yet for
23 the AICM course as of May 22nd, 2006?

24 A. ~~No.~~

25 Q. Was it your understanding that

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
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Plaintiff,

-against-

Case No.
CV-07-2433

ROSS UNIVERSITY SCHOOL OF MEDICINE,

Defendant.

October 21, 2010
9:55 a.m.

44 Wall Street
New York, New York

DEPOSITION OF DR. ENRIQUE S. FERNANDEZ,
appearing as a witness on behalf of the Defendant
herein, taken by the attorneys for Plaintiff,
Pursuant to Notice, held at the above-mentioned
time and place, before Alec Dzenski, a Notary
Public in and for the State of New York.

*** ** ***

SEVERIN & ASSOCIATES, INC.
1 South View Court
Bayville, New York 11709
TEL. (516) 628-1402 - FAX (516) 628-0423

Dr. Fernandez - Direct 12

1 April. I don't recall the exact last date of the
2 semester.

3
4 Q Would it be the early part of April,
5 the late part of April?

6 A Probably the early part of April.

7 Q After a student completes the AICM, is
8 a grade given?

9 A Yes.

10 Q When is that grade given?

11 A It's given approximately two weeks
12 after the conclusion of the course.

13 Q Is the student also given a
14 certification of completion of that course?

15 A I don't understand the question.

16 Q In addition to a grade, let's say a
17 letter or a number, is the student then certified
18 that he or she has completed the course?

19 A No.

20 MR. CAPUANO: What do you mean by
21 certified?

22 A I don't understand what you mean by
23 certified.

24 Q Is a student given a certification
25 that he or she has completed the AICM?

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2 there should have been an entry for this
3 course as of May 22nd, 2006?

4 A. Yes.

5 Q. Why is that?

6 A. It was several weeks already
7 since I was waiting for this entry.

8 Q. Why were you waiting several
9 weeks for this entry?

10 A. I wanted to see my grade for
11 the AICM course.

12 Q. Are there any requirements that
13 the AICM course or any grade be posted
14 several weeks after the final grade is
15 issued?

16 A. It is usually posted within two
17 weeks.

18 Q. What do you mean by posted?

19 A. It is in the registrar's
20 office, and in the transcript.

21 Q. And that's based on your past
22 experience?

23 A. Yes.

24 Q. Is there anything that requires
25 Ross University to submit the grade to the

1 A. DASRATH

2 registrar's office and in the transcript
3 within two weeks?

4 A. I did see postings to that
5 issue in Dominica and I believe Ross has its
6 own internal regulations.

7 Q. What are the postings that you
8 are referring to about this regulation?

9 A. That the students' grades will
10 be posted as soon as possible.

11 Q. What are the postings that you
12 are referring to? Where does it say that is
13 what I'm saying?

14 A. It is posted on the registrar's
15 door in Dominica.

16 Q. You said that Ross has its own
17 internal policies as to when it should post
18 and report grades on the transcript?

19 A. That is what I recall as Ross
20 policies that grades will be posted as soon
21 as possible.

22 Q. Where is this policy?

23 A. This policy was posted as the
24 door at the registrar's office in Dominica.

25 Q. Are there any other places that

ROSS UNIVERSITY SCHOOL OF MEDICINE
STUDENT HANDBOOK
OF
ACADEMIC RULES AND REGULATIONS

May 2006



ROSS
UNIVERSITY
SCHOOL OF MEDICINE

Cheating (whether on examinations or with laboratory data), undisclosed knowledge of cheating, stealing (whether from the Library or from fellow students), and plagiarism will not be tolerated and can lead to expulsion from the school.

In the event that a student is accused of acts that are within the jurisdiction of both the Honor Council and the Grievance Committee, then the accused student shall have the right to choose the forum in which he or she will be heard.

STUDENT POLICY ON ALCOHOL AND OTHER DRUGS

Ross University has developed a *Student Policy on Alcohol and Other Drugs*, with which all students must comply. It attached hereto and incorporated herein.

STUDENT PRIVACY RIGHTS

The University follows the guidelines of the U.S. Family Educational Rights and Privacy Act (FERPA), which are as follows:

- (1) The right to inspect and review the student's education record within 45 days of the day the University receives a request for access.

Students should submit to the University Registrar a written request that identifies the records they wish to inspect. The Registrar will make arrangements for access and notify the student of the time and place where the record may be inspected.

- (2) The right to request the amendment of the student's education records that the student believes are inaccurate or misleading.

Students may ask the University to amend a record that they believe is inaccurate. They should write to the University Registrar, clearly identify the part of the record they want corrected, and specify why it is inaccurate.

If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided when the student is notified of the right to a hearing.

- (3) The right to consent to disclosures of personally identifiable information contained in the student's education record, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an

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2 we talked about earlier that you logged
3 into?

4 A. No.

5 Q. It is something different?

6 A. I don't know what is
7 e-college.

8 Q. Grade breakdowns will be
9 available by e-mail request starting Monday.

10 Did you make a request for
11 grade breakdowns?

12 A. I didn't send any request for
13 grade breakdowns.

14 Q. So, you logged into a web site
15 that is not e-college, to your knowledge, it
16 is something different?

17 A. I don't know something called
18 e-college.

19 Q. Did you see your grade and then
20 write this e-mail to Dr. Fernandez that is
21 above what we were just discussing?

22 A. Yes.

23 Q. The e-mail above is from Mr.

24 Dasrath to Dr. Fernandez and it is dated

25 April 22nd, 2006; is that correct?